

REMARKS

Reconsideration and allowance are respectfully requested.

The above amendments address the issues on pages 2-3 of the office action. No new matter has been added. Entry and allowance are requested.

The specification is adequate and enabling and claims 40-60 are patentable under 35 U.S.C. 112, first paragraph.

Applicant has reviewed the specification at length including the instances pointed out by the Examiner on page 2 of the office action. While the Examiner's specific examples relate to non-grammatical sentences, there is no basis for holding the specification to be inadequate or non-enabling for the claimed elements of claims 40-60.

The specification clearly teaches one of ordinary skill in the art how to make and use the invention. The specification provides an adequate written description of the invention which is enabling.

The specification defines the invention as a bolt having a head that fastens the scaffolding such that the head bolt cannot be moved to loosen its position as is common in conventional devices described in the references of record. The inventive contact surfaces of the bolt prevents a twisting motion when there is tightening of the coupling fasteners.

"The function of the description requirement [of the first paragraph of 35 U.S.C. § 112] is to ensure that the inventor had

possession, as of the filing date of the application relied on, of the specific subject matter later claimed by him.," In re Wertheim, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). "It is not necessary that the application describe the claim limitations exactly. . . . but only so clearly that persons of ordinary skill in the art will recognize from the disclosure that appellants invented processes including those limitations." In re Wertheim, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976) citing In re Smythe, 480 F.2d 1376, 1382, 178 USPQ 279, 284 (CCPA 1973). Furthermore, the Federal Circuit points out that "[i]t is not necessary that the claimed subject matter be described identically, but the disclosure originally filed must convey to those skilled in the art that applicant had invented the subject matter later claimed." In re Wilder, 736 F.2d 1516, 1520, 222 USPQ 369, 372 (Fed. Cir. 1984), cert. denied, 469 U.S. 1209 (1985), citing In re Kaslow, 707 F.2d 1366, 1375, 217 USPQ 1089, 1096 (Fed. Cir. 1983).

Withdrawal of the rejection is respectfully requested.

Claims 40-60 are definite and patentable under 35 U.S.C. 112, second paragraph.

Claims 40-60 use pre-existing terminology for the elements defining the invention, particularly point out the subject matter of the invention and clearly define the metes and bounds of the claimed invention. The above amendments to the claims address the 35 U.S.C. 112, second paragraph issues. Applicant

respectfully requests the Examiner to withdraw the rejection of the claims.

Claims 20-39 are patentable over Swiss 264223 (Ferrotubi).

Claim 40 describes a scaffold coupling apparatus for tubular scaffold elements comprising a scaffold, a bolt, first and second braces attachable around the scaffold and pivotable around the bolt, a fastener for tightening the first and second braces, a fork-shaped free end-piece on the first brace, the first and second braces being connected by the fastener, the fastener comprising a shaft having T-shaped head and bell-shaped projection on the second brace for limiting a pivotal motion of the T-shaped head and threads for fitting in the fork-shaped, free end-piece of the first brace, the T-shaped head fastening the bell-shaped projecting part, and contact surfaces for allowing a pivotal motion, for preventing jamming inside the projecting parts and for preventing turning during tightening of the bracing elements. Dependent claims 41-60 add further unique features to claim 40. Nothing in Ferrotubi describes, teaches or suggests each and every claimed element.

Ferrotubi does not have the claimed shaped fastener and projection. The hammer head has no wedge shape nor the bell shaped projection uniquely defined in the present claims.

Ferrotubi is totally silent on the T-shaped head bolt with contact surfaces that prevent the twisting of the bolt when the closing elements are tightened. The claimed bolt has nothing to

do with the Ferrotubi device which lacks the T-head and the corresponding surfaces that securely place the bolt in the bell-shaped projection of the coupling brace. Therefore, Ferrotubi cannot anticipate the claimed invention.

For an invention to be anticipated, it must be demonstrated that each and every element of the claimed invention is present in the "four corners" of a single prior art, either expressly described therein or under the principle of inherency. Lewmar Marine Inc. v Barient Inc., 3 USPQ2d 1766, 1767-1768 (CAFC, 1987). The absence from prior art reference any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible, Inc., 230 USPQ 81, 84 (Fed. Cir. 1986).

The invention uniquely provides a fastener which automatically pulls into the projection when tightened preventing a twisting motion and thereby remaining in a fixed position which resolves the long-standing problems faced with use of devices such as those described in the references of record.

If examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent. In re Oetiker, 25 USPQ2d 1443, 1447 (Fed. Cir. 1992) citing In re Grabiak, 226 USPQ 870, 873 (Fed. Cir. 1985).

In fact, the office action does not provide any basis for the rejection of each of the features in every dependent claim and therefore Applicant is unable to determine the Examiner's basis for the rejection of each of the claims to adequately rebut

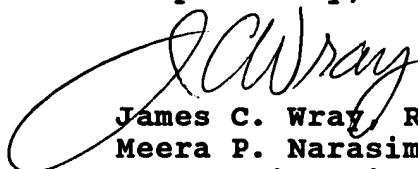
the rejections. It would be mere speculation on Applicant's part to spell out the Examiner's rejections by providing rebuttal to non-existent rejections. Therefore, as dictated by Oetiker "without more applicant is entitled to grant of the patent."

Nothing in the references, either singly or in combination, teaches or suggests the claimed features. Therefore, the references cannot anticipate nor render obvious the present invention as claimed.

Since Applicant has presented a novel, unique and non-obvious invention, reconsideration and allowance are respectfully requested.

Applicant respectfully requests an Interview with the Examiner to resolve any issues that may remain.

Respectfully,



James C. Wray, Reg. No. 22,693
Meera P. Narasimhan, Reg. No. 40,252
1493 Chain Bridge Road, Suite 300
McLean, Virginia 22101
Tel: (703) 442-4800
Fax: (703) 448-7397

October 15, 2003